

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NELSIDA GONZALEZ,

Plaintiff,

-against-

Case No.: 1:20-cv-6356 (GBD) (SLC)

ANSWER

CITY WORLD AUTOMOTIVE HOLDINGS, CITY
WORLD AUTO GROUP, LLC., CITY WORLD
TOYOTA, and YADEL MORALES, in his individual
capacity,

Defendants.

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Defendants, City World Automotive Holdings, City World Auto Group, LLC, City World
Toyota, and Yadel Morales (hereinafter the “Defendants”), by and through their attorneys, Milman
Labuda Law Group PLLC, answer the Complaint of Plaintiff, Nelsida Gonzalez, as follows:

AS TO “NATURE OF THE CASE”

1. Defendants admit that Plaintiff make certain allegations contained in ¶ 1 of the
Complaint concerning the statutes under which she brought this action but deny any violations of
said statutes.

2. Defendants deny the truth of the allegations contained in ¶ 2 of the Complaint.
3. Defendants deny the truth of the allegations contained in ¶ 3 of the Complaint.
4. Defendants deny the truth of the allegations contained in ¶ 4 of the Complaint.
5. Defendants deny the truth of the allegations contained in ¶ 5 of the Complaint.
6. Defendants deny the truth of the allegations contained in ¶ 6 of the Complaint.
7. Defendants deny the truth of the allegations contained in ¶ 7 of the Complaint.
8. Defendants deny the truth of the allegations contained in ¶ 8 of the Complaint.
9. Defendants deny the truth of the allegations contained in ¶ 9 of the Complaint.

AS TO “JURISDICTION, VENUE, AND PROCEDURAL PREREQUISITES”

10. The allegations in ¶ 10 of the Complaint purport to set forth legal conclusions to which no response is required. To the extent that ¶ 10 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

11. The allegations in ¶ 11 of the Complaint purport to set forth legal conclusions to which no response is required. To the extent that ¶ 11 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

12. The allegations in ¶ 12 of the Complaint purport to set forth legal conclusions to which no response is required. To the extent that ¶ 12 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

13. No response is required in response to ¶ 13 of the Complaint. To the extent that ¶ 13 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

14. No response is required in response to ¶ 14 of the Complaint. To the extent that ¶ 14 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

15. No response is required in response to ¶ 15 of the Complaint. To the extent that ¶ 15 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

AS TO “PARTIES”

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 16 of the Complaint.

17. Defendants deny the truth of the allegations contained in ¶ 17 of the Complaint.

18. Defendants deny the truth of the allegations contained in ¶ 18 of the Complaint.

19. No response is required in response to ¶ 19 of the Complaint. To the extent that ¶ 19 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

AS TO “FACTUAL ALLEGATIONS”

20. Defendants deny the truth of the allegations contained in ¶ 20 of the Complaint.

21. Defendants deny the truth of the allegations contained in ¶ 21 of the Complaint.

22. Defendants deny the truth of the allegations contained in ¶ 22 of the Complaint.

23. Defendants deny the truth of the allegations contained in ¶ 23 of the Complaint, except admit that Plaintiff separated from employment with Defendants at some point in time.

24. Defendants deny the truth of the allegations contained in ¶ 24 of the Complaint.

25. Defendants deny the truth of the allegations contained in ¶ 25 of the Complaint.

26. Defendants deny the truth of the allegations contained in ¶ 26 of the Complaint.

27. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 27 of the Complaint. To the extent that ¶ 27 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

28. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 28 of the Complaint. To the extent that ¶ 28 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

29. Defendants deny the truth of the allegations contained in ¶ 29 of the Complaint, except admit that at some point in time, Plaintiff returned to work for Defendants.

30. Defendants deny the truth of the allegations contained in ¶ 30 of the Complaint.

31. Defendants deny the truth of the allegations contained in ¶ 31 of the Complaint.

32. Defendants deny the truth of the allegations contained in ¶ 32 of the Complaint.

33. Defendants deny the truth of the allegations contained in ¶ 33 of the Complaint.

34. Defendants deny the truth of the allegations contained in ¶ 34 of the Complaint.

35. Defendants deny the truth of the allegations contained in ¶ 35 of the Complaint.

36. Defendants deny the truth of the allegations contained in ¶ 36 of the Complaint.

37. Defendants deny the truth of the allegations contained in ¶ 37 of the Complaint.

38. Defendants deny the truth of the allegations contained in ¶ 38 of the Complaint.

39. Defendants deny the truth of the allegations contained in ¶ 39 of the Complaint.

40. Defendants deny the truth of the allegations contained in ¶ 40 of the Complaint.

41. Defendants deny the truth of the allegations contained in ¶ 41 of the Complaint.

42. Defendants deny the truth of the allegations contained in ¶ 42 of the Complaint,

except admit that Plaintiff engaged in horseplay and had other pleasant and welcomed exchanges with Defendant Yadel Morales.

43. Defendants deny the truth of the allegations contained in ¶ 43 of the Complaint.

44. Defendants deny the truth of the allegations contained in ¶ 44 of the Complaint.

45. Defendants deny the truth of the allegations contained in ¶ 45 of the Complaint.

46. Defendants deny the truth of the allegations contained in ¶ 46 of the Complaint.

47. Defendants deny the truth of the allegations contained in ¶ 47 of the Complaint.

48. Defendants deny the truth of the allegations contained in ¶ 48 of the Complaint.

49. Defendants deny the truth of the allegations contained in ¶ 49 of the Complaint.

50. Defendants deny the truth of the allegations contained in ¶ 50 of the Complaint.

51. Defendants deny the truth of the allegations contained in ¶ 51 of the Complaint.

52. Defendants deny the truth of the allegations contained in ¶ 52 of the Complaint.

53. Defendants deny the truth of the allegations contained in ¶ 53 of the Complaint.

54. Defendants deny the truth of the allegations contained in ¶ 54 of the Complaint.

55. Defendants deny the truth of the allegations contained in ¶ 55 of the Complaint.

56. Defendants deny the truth of the allegations contained in ¶ 56 of the Complaint.

57. Defendants deny the truth of the allegations contained in ¶ 57 of the Complaint.

58. Defendants deny the truth of the allegations contained in ¶ 58 of the Complaint.

59. Defendants deny the truth of the allegations contained in ¶ 59 of the Complaint.

60. Defendants deny the truth of the allegations contained in ¶ 60 of the Complaint.

61. Defendants deny the truth of the allegations contained in ¶ 61 of the Complaint.

62. Defendants deny the truth of the allegations contained in ¶ 62 of the Complaint.

63. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 63 of the Complaint. To the extent that ¶ 63 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

64. Defendants deny the truth of the allegations contained in ¶ 64 of the Complaint, except admit that at some point in time Plaintiff moved to the Toyota dealership.

65. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 65 of the Complaint. To the extent that ¶ 65 sets forth any allegations of fact to which a response is required, Defendants deny those allegations, except admit that Plaintiff was offered a \$1.00 raise at some point in time.

66. Defendants deny the truth of the allegations contained in ¶ 66 of the Complaint.

67. Defendants deny the truth of the allegations contained in ¶ 67 of the Complaint.

68. Defendants deny the truth of the allegations contained in ¶ 68 of the Complaint.

69. Defendants deny the truth of the allegations contained in ¶ 69 of the Complaint.

70. Defendants deny the truth of the allegations contained in ¶ 70 of the Complaint.

71. Defendants deny the truth of the allegations contained in ¶ 71 of the Complaint.

72. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 72 of the Complaint.

73. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 73 of the Complaint.

74. Defendants deny the truth of the allegations contained in ¶ 74 of the Complaint.

75. Defendants deny the truth of the allegations contained in ¶ 75 of the Complaint.

76. Defendants deny the truth of the allegations contained in ¶ 76 of the Complaint.

77. Defendants deny the truth of the allegations contained in ¶ 77 of the Complaint.

78. Defendants deny the truth of the allegations contained in ¶ 78 of the Complaint.

79. Defendants deny the truth of the allegations contained in ¶ 79 of the Complaint.

80. Defendants deny the truth of the allegations contained in ¶ 80 of the Complaint.

81. Defendants deny the truth of the allegations contained in ¶ 81 of the Complaint.

82. Defendants deny the truth of the allegations contained in ¶ 82 of the Complaint.

83. Defendants deny the truth of the allegations contained in ¶ 83 of the Complaint.

84. Defendants deny the truth of the allegations contained in ¶ 84 of the Complaint.

85. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 85 of the Complaint. To the extent that ¶ 85 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

86. Defendants deny the truth of the allegations contained in ¶ 86 of the Complaint.

87. Defendants deny the truth of the allegations contained in ¶ 87 of the Complaint.

88. Defendants deny the truth of the allegations contained in ¶ 88 of the Complaint.

89. Defendants deny the truth of the allegations contained in ¶ 89 of the Complaint.

90. Defendants deny the truth of the allegations contained in ¶ 90 of the Complaint.

91. Defendants deny the truth of the allegations contained in ¶ 91 of the Complaint.

92. Defendants deny the truth of the allegations contained in ¶ 92 of the Complaint.

93. Defendants deny the truth of the allegations contained in ¶ 93 of the Complaint.

94. Defendants deny the truth of the allegations contained in ¶ 94 of the Complaint.

95. Defendants deny the truth of the allegations contained in ¶ 95 of the Complaint.

96. Defendants deny the truth of the allegations contained in ¶ 96 of the Complaint.

97. Defendants deny the truth of the allegations contained in ¶ 97 of the Complaint.

98. Defendants deny the truth of the allegations contained in ¶ 98 of the Complaint.

99. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 99 of the Complaint. To the extent that ¶ 99 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

100. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 100 of the Complaint because it speaks to Plaintiff's alleged state of mind. To the extent that ¶ 100 sets forth any allegations of fact to which a response is required, Defendants deny those allegations, except admit that Plaintiff once complained to Mike Rizzuto at some point in time.

101. Defendants deny the truth of the allegations contained in ¶ 101 of the Complaint.

102. Defendants deny the truth of the allegations contained in ¶ 102 of the Complaint.

103. Defendants deny the truth of the allegations contained in ¶ 103 of the Complaint.

104. Defendants deny the truth of the allegations contained in ¶ 104 of the Complaint.

105. Defendants deny the truth of the allegations contained in ¶ 105 of the Complaint.

106. Defendants deny the truth of the allegations contained in ¶ 106 of the Complaint.

107. Defendants deny the truth of the allegations contained in ¶ 107 of the Complaint.

108. Defendants deny the truth of the allegations contained in ¶ 108 of the Complaint.

109. Defendants deny the truth of the allegations contained in ¶ 109 of the Complaint.

110. Defendants deny the truth of the allegations contained in ¶ 110 of the Complaint.

111. Defendants deny the truth of the allegations contained in ¶ 111 of the Complaint.

112. Defendants deny the truth of the allegations contained in ¶ 112 of the Complaint.

113. Defendants deny the truth of the allegations contained in ¶ 113 of the Complaint.

114. Defendants deny the truth of the allegations contained in ¶ 114 of the Complaint.

115. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 115 of the Complaint. To the extent that ¶ 115 sets forth any allegations of fact to which a response is required, Defendants deny those allegations.

116. Defendants deny the truth of the allegations contained in ¶ 116 of the Complaint.

117. Defendants deny the truth of the allegations contained in ¶ 117 of the Complaint.

118. Defendants deny the truth of the allegations contained in ¶ 118 of the Complaint.

119. Defendants deny the truth of the allegations contained in ¶ 119 of the Complaint.

120. Defendants deny the truth of the allegations contained in ¶ 120 of the Complaint.

121. Defendants deny the truth of the allegations contained in ¶ 121 of the Complaint.

122. Defendants deny the truth of the allegations contained in ¶ 122 of the Complaint.

123. Defendants deny the truth of the allegations contained in ¶ 123 of the Complaint.

124. Defendants deny the truth of the allegations contained in ¶ 124 of the Complaint.

125. Defendants deny the truth of the allegations contained in ¶ 125 of the Complaint.

126. Defendants deny the truth of the allegations contained in ¶ 126 of the Complaint.

127. Defendants deny the truth of the allegations contained in ¶ 127 of the Complaint.

128. Defendants deny the truth of the allegations contained in ¶ 128 of the Complaint.

129. Defendants admit the allegations contained in ¶ 129 of the Complaint, except deny Plaintiff's characterization of Defendants' policies.

130. Defendants admit the allegations contained in ¶ 130 of the Complaint.

131. Defendants deny the truth of the allegations contained in ¶ 131 of the Complaint.

132. Defendants deny the truth of the allegations contained in ¶ 132 of the Complaint.

133. Defendants deny the truth of the allegations contained in ¶ 133 of the Complaint.

134. Defendants deny the truth of the allegations contained in ¶ 134 of the Complaint.

135. Defendants deny the truth of the allegations contained in ¶ 135 of the Complaint.

136. Defendants deny the truth of the allegations contained in ¶ 136 of the Complaint.

137. Defendants deny the truth of the allegations contained in ¶ 137 of the Complaint.

138. Defendants deny the truth of the allegations contained in ¶ 138 of the Complaint.

139. Defendants deny the truth of the allegations contained in ¶ 139 of the Complaint.

**AS TO "AS A FIRST CAUSE OF ACTION
FOR DISCRIMINATION/SEXUAL HARASSMENT UNDER TITLE VII
(against City World & City World Toyota)"**

140. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 140 of the Complaint.

141. Defendants admit that Plaintiff make certain allegations contained in ¶ 141 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

142. Defendants deny the truth of the allegations contained in ¶ 142 of the Complaint.

143. Defendants deny the truth of the allegations contained in ¶ 143 of the Complaint.

144. Defendants deny the truth of the allegations contained in ¶ 144 of the Complaint.

145. Defendants deny the truth of the allegations contained in ¶ 145 of the Complaint.

146. Defendants deny the truth of the allegations contained in ¶ 146 of the Complaint.

147. Defendants deny the truth of the allegations contained in ¶ 147 of the Complaint.

148. Defendants deny the truth of the allegations contained in ¶ 148 of the Complaint.

149. Defendants deny the truth of the allegations contained in ¶ 149 of the Complaint.

**AS TO “AS A SECOND CAUSE OF ACTION
RETALIATION UNDER TITLE VII
(Against Defendants City World)”**

150. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 150 of the Complaint.

151. Defendants admit that Plaintiff make certain allegations contained in ¶ 151 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

152. Defendants deny the truth of the allegations contained in ¶ 152 of the Complaint.

153. Defendants deny the truth of the allegations contained in ¶ 153 of the Complaint.

154. Defendants deny the truth of the allegations contained in ¶ 154 of the Complaint.

155. Defendants deny the truth of the allegations contained in ¶ 155 of the Complaint.

156. Defendants deny the truth of the allegations contained in ¶ 156 of the Complaint.

157. Defendants deny the truth of the allegations contained in ¶ 157 of the Complaint.

158. Defendants deny the truth of the allegations contained in ¶ 158 of the Complaint.

159. Defendants deny the truth of the allegations contained in ¶ 159 of the Complaint.

160. Defendants deny the truth of the allegations contained in ¶ 160 of the Complaint.

161. Defendants deny the truth of the allegations contained in ¶ 161 of the Complaint.

**AS TO “AS A THIRD CAUSE OF ACTION
DISCRIMINATION/SEXUAL HARASSMENT UNDER NEW YORK STATE
EXECUTIVE LAW”**

162. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 162 of the Complaint.

163. Defendants admit that Plaintiff make certain allegations contained in ¶ 163 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

164. Defendants deny the truth of the allegations contained in ¶ 164 of the Complaint.

165. Defendants deny the truth of the allegations contained in ¶ 165 of the Complaint.

166. Defendants deny the truth of the allegations contained in ¶ 166 of the Complaint.

167. Defendants deny the truth of the allegations contained in ¶ 167 of the Complaint.

168. Defendants deny the truth of the allegations contained in ¶ 168 of the Complaint.

169. Defendants deny the truth of the allegations contained in ¶ 169 of the Complaint.

170. Defendants deny the truth of the allegations contained in ¶ 170 of the Complaint.

171. Defendants deny the truth of the allegations contained in ¶ 171 of the Complaint.

**AS TO “AS A FOURTH CAUSE OF ACTION
RETALIATION UNDER THE NEW YORK STATE EXECUTIVE LAW”¹**

172. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 172 of the Complaint.

173. Defendants admit that Plaintiff make certain allegations contained in ¶ 173 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

¹ Plaintiff incorrectly numbers these allegations with ¶¶ 145-156. Defendants shall utilize the correctly numbered ¶¶ 172-183.

174. Defendants deny the truth of the allegations contained in ¶ 174 of the Complaint.

175. Defendants deny the truth of the allegations contained in ¶ 175 of the Complaint.

176. Defendants deny the truth of the allegations contained in ¶ 176 of the Complaint.

177. Defendants deny the truth of the allegations contained in ¶ 177 of the Complaint.

178. Defendants deny the truth of the allegations contained in ¶ 178 of the Complaint.

179. Defendants deny the truth of the allegations contained in ¶ 179 of the Complaint.

180. Defendants deny the truth of the allegations contained in ¶ 180 of the Complaint.

181. Defendants deny the truth of the allegations contained in ¶ 181 of the Complaint.

182. Defendants deny the truth of the allegations contained in ¶ 182 of the Complaint.

183. Defendants deny the truth of the allegations contained in ¶ 183 of the Complaint.

**AS TO “AS A FIFTH CAUSE OF ACTION FOR DISCRIMINATION/RETALIATION
UNDER NEW YORK STATE EXECUTIVE LAW – AIDER & ABETTOR LIABILITY”
(Against Individual Defendant Morales)²**

184. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 184 of the Complaint.

185. Defendants admit that Plaintiff make certain allegations contained in ¶ 185 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

186. Defendants deny the truth of the allegations contained in ¶ 186 of the Complaint.

187. Defendants deny the truth of the allegations contained in ¶ 187 of the Complaint.

188. Defendants deny the truth of the allegations contained in ¶ 188 of the Complaint.

189. Defendants deny the truth of the allegations contained in ¶ 189 of the Complaint.

² Plaintiff incorrectly numbers these allegations with ¶¶ 157-166. Defendants shall utilize the correctly numbered ¶¶ 184-193.

190. Defendants deny the truth of the allegations contained in ¶ 190 of the Complaint.

191. Defendants deny the truth of the allegations contained in ¶ 191 of the Complaint.

192. Defendants deny the truth of the allegations contained in ¶ 192 of the Complaint.

193. Defendants deny the truth of the allegations contained in ¶ 193 of the Complaint.

**AS TO “AS A SIXTH CAUSE OF ACTION
DISCRIMINATION/SEXUAL HRASSMENT UNDER THE NEW YORK CITY
ADMINISTRATIVE CODE, NYC HUMAN RIGHTS LAW”³**

194. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 194 of the Complaint.

195. Defendants admit that Plaintiff make certain allegations contained in ¶ 195 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

196. Defendants deny the truth of the allegations contained in ¶ 196 of the Complaint.

197. Defendants deny the truth of the allegations contained in ¶ 197 of the Complaint.

198. Defendants deny the truth of the allegations contained in ¶ 198 of the Complaint.

199. Defendants deny the truth of the allegations contained in ¶ 199 of the Complaint.

200. Defendants deny the truth of the allegations contained in ¶ 200 of the Complaint.

201. Defendants deny the truth of the allegations contained in ¶ 201 of the Complaint.

202. Defendants deny the truth of the allegations contained in ¶ 202 of the Complaint.

³ Plaintiff incorrectly numbers these allegations with ¶¶ 167-175. Defendants shall utilize the correctly numbered ¶¶ 194-202.

**AS TO “AS A SEVENTH CAUSE OF ACTION
RETALIATION UNDER THE NYC ADMINISTRATIVE CODE”⁴**

203. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 203 of the Complaint.

204. Defendants admit that Plaintiff make certain allegations contained in ¶ 204 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

205. Defendants deny the truth of the allegations contained in ¶ 205 of the Complaint.

206. Defendants deny the truth of the allegations contained in ¶ 206 of the Complaint.

207. Defendants deny the truth of the allegations contained in ¶ 207 of the Complaint.

208. Defendants deny the truth of the allegations contained in ¶ 208 of the Complaint.

209. Defendants deny the truth of the allegations contained in ¶ 209 of the Complaint.

210. Defendants deny the truth of the allegations contained in ¶ 210 of the Complaint.

211. Defendants deny the truth of the allegations contained in ¶ 211 of the Complaint.

212. Defendants deny the truth of the allegations contained in ¶ 212 of the Complaint.

213. Defendants deny the truth of the allegations contained in ¶ 213 of the Complaint.

214. Defendants deny the truth of the allegations contained in ¶ 214 of the Complaint.

215. Defendants deny the truth of the allegations contained in ¶ 215 of the Complaint.

⁴ Plaintiff incorrectly numbers these allegations with ¶¶ 176-188. Defendants shall utilize the correctly numbered ¶¶ 203-214.

**AS TO “AS AN EIGHTH CAUSE OF ACTION
FOR DISCRIMINATION/RETALIATION UNDER THE NYCHRL/NYC
ADMINISTRATIVE CODE – AIDER & ABETTOR LIABILITY”⁵
(Against Individual Defendant Morales)**

216. To the extent a response is required, Defendants deny the truth of the allegations contained in ¶ 216 of the Complaint.

217. Defendants admit that Plaintiff make certain allegations contained in ¶ 217 of the Complaint concerning the statutes under which she brought this action but deny any violations of said statutes.

218. Defendants deny the truth of the allegations contained in ¶ 218 of the Complaint.

219. Defendants deny the truth of the allegations contained in ¶ 219 of the Complaint.

220. Defendants deny the truth of the allegations contained in ¶ 220 of the Complaint.

221. Defendants deny the truth of the allegations contained in ¶ 221 of the Complaint.

222. Defendants deny the truth of the allegations contained in ¶ 222 of the Complaint.

223. Defendants deny the truth of the allegations contained in ¶ 223 of the Complaint.

224. Defendants deny the truth of the allegations contained in ¶ 224 of the Complaint.

225. Defendants deny the truth of the allegations contained in ¶ 225 of the Complaint.

AS TO “PUNITIVE DAMAGES ARE APPROPRIATE”⁶

226. Defendants deny the truth of the allegations contained in ¶ 226 of the Complaint.

DEFENDANTS’ DEMAND FOR A JURY TRIAL

227. Pursuant to Fed. R. Civ. P. 38(b), Defendants demand a trial by jury in this case.

⁵ Plaintiff incorrectly numbers these allegations with ¶¶ 189-198. Defendants shall utilize the correctly numbered ¶¶ 216-227.

⁶ Plaintiff incorrectly numbers this allegation with ¶ 199. Defendants shall utilize the correctly numbered ¶ 226.

DEFENDANTS' AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

228. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

SECOND AFFIRMATIVE DEFENSE

229. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

THIRD AFFIRMATIVE DEFENSE

230. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

FOURTH AFFIRMATIVE DEFENSE

231. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

FIFTH AFFIRMATIVE DEFENSE

232. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

233. Defendants have met and satisfied any and all obligations to Plaintiff that arose out of and during her employment and, therefore, this action is barred, in whole or in part, by the doctrine of accord and satisfaction.

SEVENTH AFFIRMATIVE DEFENSE

234. Plaintiff's claims for damages are barred, in whole or in part, by Plaintiff's failure to mitigate damages.

EIGHTH AFFIRMATIVE DEFENSE

235. The allegations of the Complaint are insufficient to entitle Plaintiff to an award of attorneys' fees.

NINTH AFFIRMATIVE DEFENSE

236. The causes of action herein have been waived and/or are barred by reason of the Plaintiff's failure to give proper and timely notice to the Defendants of her claims.

TENTH AFFIRMATIVE DEFENSE

237. Plaintiff was not employed by each and every Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

238. Plaintiff is not entitled to an award of any damages, including but not limited to compensatory damages, punitive damages or attorneys' fees.

TWELFTH AFFIRMATIVE DEFENSE

239. All actions taken by Defendants were taken for legitimate, non-discriminatory reasons. As such, Defendants did not violate any legal right possessed by Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

240. Without conceding in any way to the allegations of the Complaint, at all times relevant to this action, Defendants have maintained and enforced policies prohibiting discrimination, has provided procedures through which employees can notify it of violations and/or perceived violations of these policies and has promptly investigated complaints of discrimination and have taken corrective action where appropriate. To the extent, if at all, Plaintiff experienced or perceived discrimination while allegedly in Defendants' employ, she failed to notify Defendants and unreasonably failed to avail herself of the preventive and corrective opportunities provided by Defendants. Alternatively, to the extent, if at all, Plaintiff notified Defendants of any discrimination and/or availed herself of the preventive and corrective opportunities provided to her, Defendants promptly investigated and, if and to the extent appropriate, took corrective action.

FOURTEENTH AFFIRMATIVE DEFENSE

241. Plaintiff's claims, in whole or in part, fail to state a claim upon which relief can be granted.

FIFTEENTH AFFIRMATIVE DEFENSE

242. Any adverse employment action against Plaintiff was for legitimate nondiscriminatory reasons.

SIXTEENTH AFFIRMATIVE DEFENSE

243. To the extent that Plaintiff engaged in misconduct, prior to or during her employment which would have resulted in denial of her employment or in termination of her employment, had said acts or omissions been known to Defendants, any relief awarded should be reduced, in whole or in part, due to Plaintiff having engaged in such misconduct.

SEVENTEENTH AFFIRMATIVE DEFENSE

244. Defendants deny that Plaintiff suffered any emotional distress as a result of actions taken by Defendants, and any emotional distress suffered by Plaintiff is attributable to causes wholly independent of Defendants' alleged actions.

EIGHTEENTH AFFIRMATIVE DEFENSE

245. The Court should not exercise supplemental jurisdiction of Plaintiff's state law claims.

NINETEENTH AFFIRMATIVE DEFENSE

246. Plaintiff's damages, if any, were not proximately caused by the acts or omissions of Defendants.

TWENTIETH AFFIRMATIVE DEFENSE

247. Plaintiff cannot establish that she suffered unwelcome harassment such that the workplace was permeated with discriminatory intimidation, ridicule, and insult; she was harassed because of her membership in a protected class; the harassment was sufficiently severe or pervasive to alter conditions of her employment and create an abusive work environment; and there is a specific basis of imputing the harassment to Defendants.

TWENTY-FIRST AFFIRMATIVE DEFENSE

248. Plaintiff's claim for damages for emotional distress is barred by the exclusivity provisions of the New York State Workers' Compensation Law, §§ 10-11.

TWENTY-SECOND AFFIRMATIVE DEFENSE

249. Plaintiff's claims are barred to the extent she petitioned for bankruptcy either under Chapter 7 or Chapter 13 of the United States bankruptcy code yet failed to disclose potential claims against Defendants as required under applicable bankruptcy laws.

TWENTY-THIRD AFFIRMATIVE DEFENSE

250. To the extent Plaintiff failed to meet conditions precedent prior to asserting her Title VII claims and the United States Equal Employment Opportunity Commission ("EEOC") failed to attempt conciliation in violation of 42 U.S.C § 2000e-5, her claims are barred.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

251. Plaintiff failed to provide a copy of her Complaint to the New York City Commission on Human Rights and Corporation Counsel in violation of NYC Administrative Code 8-502.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

252. The Complaint is presented in conclusory and vague terms, which prevents Defendants from anticipating all affirmative defenses and claims that may be applicable in this action. Therefore, to the extent permitted under the FRCP and applicable case law, Defendants reserve the right to assert additional defenses or claims that may become known during the course of discovery.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

253. Plaintiff cannot establish that she was treated less well on account of her membership in a protected class.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

254. Plaintiff welcomed the conduct she complains of.

WHEREFORE, Defendants pray that the Court dismiss the Complaint in its entirety including each and every demand and prayer for relief contained in the Complaint, and grant such other and further relief that the Court deems just and proper.

Dated: Lake Success, New York
October 13, 2020

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

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